

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

HERBERT POUNDS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-06-1209-F
)	
STATE OF OKLAHOMA,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing pro se, brings this action alleging violations of his constitutional rights. This matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). Because Plaintiff has failed to cure certain deficiencies pursuant to an order of this Court, the undersigned recommends that the complaint be dismissed without prejudice.

By Order of this Court dated November 8, 2006, Plaintiff was ordered to cure certain deficiencies with respect to his motion for leave to proceed *in forma pauperis* on or before November 28, 2006, which date was extended to December 26, 2006 by order dated December 6, 2006.

A review of the Court file reveals that as of this date, Plaintiff has not cured the deficiency as ordered, requested an extension of time within which to do so, nor demonstrated good cause for his failure to respond to the Court's order.¹ Therefore, the undersigned recommends that this action be dismissed without prejudice to refiling.

¹On November 14, 2006, November 21, 2006 and again on December 27, 2006, the Clerk received letters from the Plaintiff. The letters are rambling and unintelligible. In any event, Plaintiff has not shown the Court that he is unable to comply with the order of November 8, 2006.

RECOMMENDATION

Accordingly, because Plaintiff has failed to comply with this Court's order, it is recommended that this action be dismissed without prejudice to refiling. Plaintiff is advised that any objection to this Report and Recommendation must be filed with the Clerk of this Court by the 18th day of January, 2007, in accordance with 28 U.S.C. §636 and Local Rule 72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 29th day of December, 2006.



BANA ROBERTS
UNITED STATES MAGISTRATE JUDGE